

REMARKS

The paper is in response to the Office Action mailed October 31, 2008 ("the Office Action"). The foregoing amendment cancels claims 7, 23, 26, and 33 and amends claims 1, 11, 18, 24, 27, 29, and 32. Claims 1-6, 8-22, 24, 25, 27-32 and 34 are now pending in view of the amendments. Applicants respectfully request reconsideration of the application in view of the above amendments to the claims and the following remarks. For Examiner's convenience and reference, Applicants present remarks in the order that the Office Action raises the corresponding issues.

In connection with the prosecution of this case and any related cases, Applicants have, and/or may, discuss various aspects of the disclosure of the cited references as those references are then understood by the Applicants. Because such discussion could reflect an incomplete or incorrect understanding of one or more of the references, the position of the Applicants with respect to a reference is not necessarily fixed or irrevocable. Applicants thus hereby reserve the right, both during and after prosecution of this case, to modify the views expressed with regard to any reference.

Please note that Applicants do not intend the following remarks to be an exhaustive enumeration of the distinctions between any cited references and the claims. Rather, Applicants present the distinctions below solely by way of example to illustrate some of the differences between the claims and the cited references. Finally, Applicants request that Examiner carefully review any references discussed below to ensure that Applicants' understanding and discussion of any reference is consistent with Examiner's understanding.

Unless otherwise explicitly stated, the term "Applicants" is used herein generically and may refer to a single inventor, a set of inventors, an appropriate assignee, or any other entity or person with authority to prosecute this application.

Rejection under 35 U.S.C §103(a)

The Office action rejects claims 1-5, 8-20, 22-25, 29-32, and 34 under 35 U.S.C §103(a) over *Yunker et al.* (U.S. Patent No. 6,854,894) in view of *Chiu et al.* (U.S. Patent No.

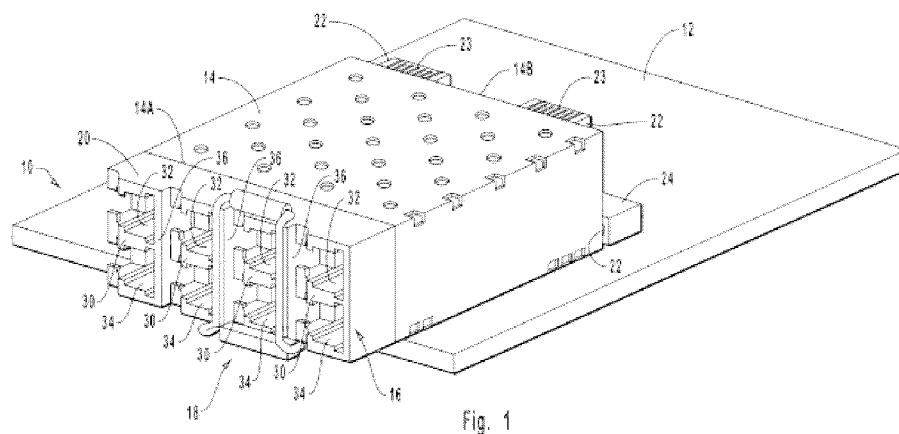
7,118,281)¹ and rejects claims 6 and 21 under 35 U.S.C §103(a) over *Yunker et al.* in view of *Chiu et al.* in further view of *Ahrens* (U.S. Patent No. 6,533,470).

Under 35 U.S.C §103(a), "[a] patent may not be obtained . . . if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." According to MPEP §2142, "[t]he examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness." Finally, MPEP 2141.III notes that:

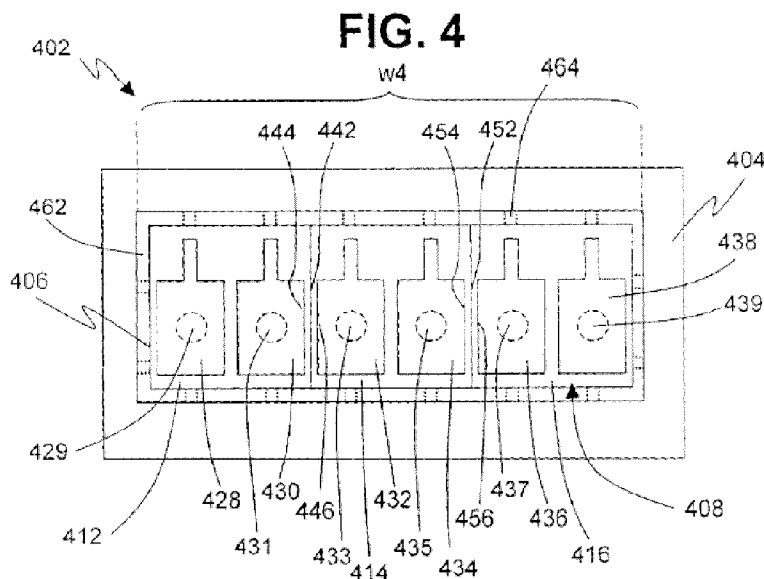
"The key to supporting any rejection under 35 U.S.C. 103 is the ***clear articulation of the reason(s) why the claimed invention would have been obvious.*** The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Court quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), stated that ***"[R]jections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."*** *KSR*, 550 U.S. at ___, 82 USPQ2d at 1396." (emphasis added)

Claim 1 has been amended to require that the optical sub-modules be disposed belly-to-belly such that receive ports of adjacent sub-modules are disposed in a row along a length of the component structure and the transmit ports of adjacent sub-modules are disposed in a row along the length of the component structure. Such an embodiment is illustrated in Figure 1 (reproduced below).

¹ Because *reference* is only citable under 35 U.S.C. §102(e) or 35 U.S.C. §102(a), Applicants do not admit that *reference* is in fact prior art with respect to any or all of the claims of the present application, but rather reserve the right to swear behind *reference* in this application or a divisional, continuation, or CIP thereof, thereby removing it as a reference.



Yunker, on the other hand, discloses that the individual module are disposed in a side-by-side arrangement as shown in Figure 4 (reproduced below).



Thus, if the letter "T" is used to illustrate the location of a transmit port and the letter "R" is used to illustrate the position of a receive port, the Applicant's claimed design can be contrasted to the teachings of *Yunker* as follows:

T T T T
 R R R R

T R T R T R T R

Applicant's
Embodiment

Yunker's Embodiments

As can be appreciated from the above illustration, the Applicant's embodiment is much more compact than the *Yunker* embodiment.

Notwithstanding the improvement in compactness, this distinction may appear somewhat trivial at first. However, the importance of the configuration becomes more distinct when considered in conjunction with the proposed combination of *Yunker* and *Chiu*. On page 3 of the Office Action the Examiner admits that *Yunker* does not disclose a latching mechanism. However, the Examiner suggests that it would be obvious to incorporate the latching mechanism of *Chiu* into *Yunker* to secure the modules of *Yunker* within a cage. However, if the teachings of *Chiu* were incorporated into *Yunker* and the arrangement of *Yunker* were modified according to the requirements of claim 1 as currently presented, the latching mechanism of *Chiu* would fail to function.

More specifically, if the modules of *Yunker* were disposed in a belly-to-belly configuration as required by claim 1 the latching mechanism of *Chiu* would not have the required clearance to function properly. This point is clearly illustrated by Figure 18D of *Chiu* (reproduced below).

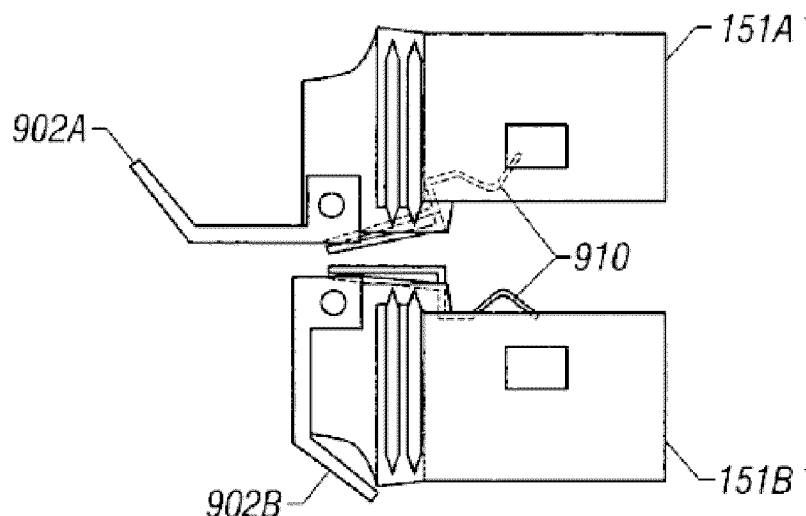


FIG. 18D

As is clear from Figure 18D that if the latching mechanism disclosed by *Chiu* were incorporated into a single integrated design including a plurality of modules in a belly-to-belly configuration, there would not be the required clearance between the modules for the levers 902A and 902B to pivot into, nor would there be sufficient room for the triangles 910 to rotate into and out from engagement. Therefore, if the teachings of *Yunker* were modified as currently claimed, and a combination with *Chiu* were proposed, such a combination of teachings would most likely render a non-functional design as there is no space in-between such an array of modules for the latching design of *Chiu* to function in such a configuration.

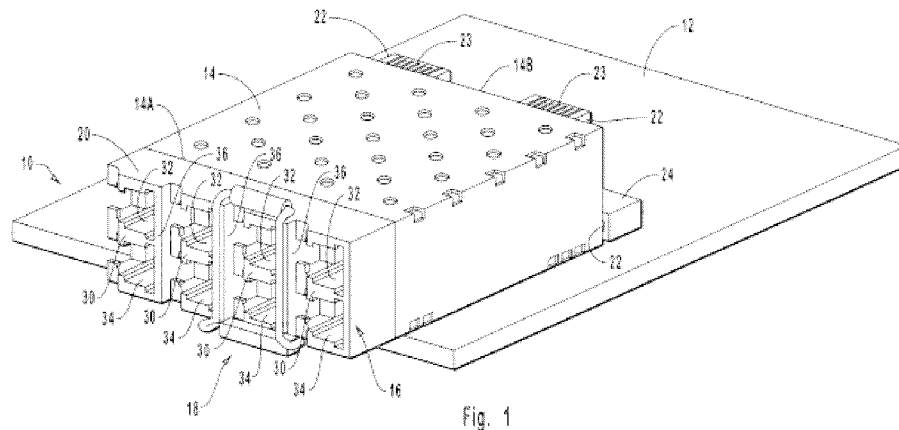
Therefore, the Applicant respectfully requests that the rejection of claim 1 be withdrawn as one of ordinary skill in the art would not have a predictable reason to modify the teachings of *Yunker* and *Chiu* so as to create a non-functional design. The Applicant respectfully requests that the rejections of claim 11 be withdrawn for substantially similar reasons as set forth regarding claim 1. Claims 2-6 and 8-10 depend from claim 1 and claims 12-17 depend from claim 11. If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Therefore, the Applicants respectfully request that the rejections of claims 2-6 and 8-10 be withdrawn at least for the same reasons as claims 1 and 11.

The Office Action objects to claims 26-28 and 33 as being dependent on a rejected base claim, but indicates that claims 26-28 and 33 would be allowable if rewritten in independent form to include all of the elements of the base claim and any intervening claims.

The elements of claim 33 have been incorporated into claim 32 as suggested in the Office Action. Therefore, claim is believed to be allowable. Claim 34 depends from claim 32 and is believed to be allowable as well.

The Applicant has incorporated the elements of claim 26 and 23 into claim 18 **without the other intervening claims**. However, the Applicant respectfully asserts that claim 18 is patentable with the elements of claims 26 and 23 alone and respectfully requests that the rejections of claim 18 be withdrawn. Claims 19-22, 24, 25, 27, and 28 depend from claim 18. Therefore, the Applicant respectfully asserts that claims 19-22, 24, 25, 27, and 28 are allowable at least for the same reasons as claim 18.

Claim 29 has been amended to require a rotatable bail and a pivot block where the rotatable bail is "configured to rotate over a width of the component structure and around only a particular one of the optical transceiver sub-modules...." Such a configuration is illustrated in Figure 1 where the rotatable bail is rotatable over a single centrally located one of four transceiver sub-modules in this embodiment. This arrangement reduces the size of the rotatable bail and provides the central securing feature while allowing access to the receive and transmit ports of the adjacent transceiver sub-modules. Moreover, such an arrangement is neither taught nor suggested by *Yunker*, *Chiu*, nor any other reference of record.



Therefore, the Applicant respectfully requests that the rejections of claim 29 be withdrawn as the only source of record disclosing the teachings set forth therein reside in the Applicant's specification and drawings. As such, any rejection of claim 29, as currently presented, is based on hindsight reconstruction of the Applicant's teachings. Claims 30 and 31 depend from claim 29. Therefore, the Applicant respectfully requests that the rejections of claims 30 and 31 be withdrawn for at least the same reasons as claim 29.

Charge Authorization

The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication, or credit any overpayment, to Deposit Account No. 23-3178: (1) any filing fees required under 37 CFR § 1.16; (2) any patent application and reexamination processing fees under 37 CFR § 1.17; and/or (3) any post issuance fees under 37

CFR § 1.20. In addition, if any additional extension of time is required, which has not otherwise been requested, please consider this a petition therefor and charge any additional fees that may be required to Deposit Account No. 23-3178.

CONCLUSION

In view of the foregoing, Applicants submit that the pending claims are allowable. In the event that Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview or overcome by an Examiner's Amendment, Examiner is requested to contact the undersigned attorney.

Dated this 31st day of March, 2009.

Respectfully submitted,

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